

## § 473.23

grant, under cooperative agreement, under contract, as a DOE project, or as an agency project and any other pertinent information received under these regulations or otherwise available; and

(2) Initially determine whether the research and development reviewed under paragraph (a)(1) of this section complies with the standards and criteria of § 473.30.

(b) A manager who makes a negative determination under paragraph (a)(2) of this section shall inform the applicant and any interested person who objected of the decision in writing with a brief statement of supporting reasons.

(c) A manager who initially determines that research and development reviewed under this section complies with the standards and criteria of § 473.30 shall cause an interagency review panel to be convened under § 473.23.

### § 473.23 Interagency review panel.

(a) The interagency review panel shall consist of—

(1) A head designated by the Federal agency that employs the manager;

(2) A representative of the DOE if the manager is not an employee of the DOE; and

(3) A representative of any other Federal agency deemed appropriate by the Federal agency that employs the manager.

(b) The interagency review panel shall—

(1) Review the research and development to be performed and consider the information presented by the applicant, in the case of a grant, cooperative agreement, or contract, and by any interested person who filed a statement of objection;

(2) Make a recommendation with a supporting statement of findings to the manager as to whether the research and development to be performed complies with the standards and criteria of § 473.30; and

(3) Operate by majority vote with the head of the panel casting the decisive vote in the event of a tie.

### § 473.24 Final action and certification by manager.

(a) Upon consideration of the recommendation of the interagency re-

view panel and other pertinent information, the manager—

(1) Shall determine whether the research and development to be performed complies with the standards and criteria of § 473.30;

(2) Shall obtain the concurrence of the DOE if the manager is not an employee of the DOE;

(3) Shall, in the event of a negative determination under this section, advise the applicant, in the case of a grant, cooperative agreement, or contract, and any interested person who filed a statement of objection; and

(4) Shall, in the event of an affirmative determination under this section, prepare a certification—

(i) Explaining the determination;

(ii) Discussing any allegedly related or comparable industrial research and development considered and deemed to be an inadequate basis for not certifying the grant or contract;

(iii) Discussing issues regarding cost sharing and patent rights related to the standards and criteria of § 473.30 of these regulations; and

(iv) Discussing any other relevant issue.

(b) After complying with paragraph (a) of this section, the manager shall sign the certification and distribute copies to the applicant, if any, and any interested person who filed a statement of objections—

(1) Immediately in the case of a DOE or agency project; and

(2) After the agreement has been negotiated in the case of a grant, cooperative agreement, or contract.

### § 473.25 Reviewability of certification.

Any certification issued under these rules is—

(a) Subject to disclosure under 5 U.S.C. 552 (1970) and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, 42 U.S.C. 5918 (1970);

(b) Subject neither to judicial review nor to the provisions of 5 U.S.C. 551–559 (1970), except as provided under paragraph (a) of this section; and

(c) Available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.